APPENDIX
VOLUME II

Supreme Court of the United States

OCTOBER TERM, 1967

No. 800

WORLD AIRWAYS, INC., ET AL., *Petitioners,*

v.

PAN AMERICAN WORLD AIRWAYS, INC., TRANS WORLD AIRLINES, INC. and AMERICAN AIRLINES, INC., *Respondents.*

No. 946

CIVIL AERONAUTICS BOARD, *Petitioner,*

v.

PAN AMERICAN WORLD AIRWAYS, INC., TRANS WORLD AIRLINES, INC. and AMERICAN AIRLINES, INC., *Respondents.*

No. 969

AMERICAN SOCIETY OF TRAVEL AGENTS, INC., *Petitioner,*

v.

PAN AMERICAN WORLD AIRWAYS, INC., TRANS WORLD AIRLINES, INC. and AMERICAN AIRLINES, INC., *Respondents.*

ON PETITIONS FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Petition For Certiorari Filed In No. 800, November 7, 1967
Petition For Certiorari Filed In No. 946, December 22, 1967
Petition For Certiorari Filed In No. 969, December 28, 1967

Certiorari granted and consolidated January 29, 1968

INDEX TO APPENDIX

Pages in Certified Records		Appendix Pages
	VOLUME I	
	Relevant Docket Entries	Ia
Docket No. 13795		
115	Notice by CAB that it will proceed with processing of applications for supplemental air service, July 12, 1963	1a
304	Order No. 20573	2a
633	Report of Prehearing Conference, June 2, 1964	17a
4108	Holiday Airways, Inc., HOL-T-4 Testimony of Richard D. Neumann	20a
	World Airways, Inc.:	
6065	World—300	21a
6229	World Form D	23a
6414	World W-5	24a
6622	Bureau of Economic Regulation, BER Index	27a
7174	Joint Intervenors, JI-8	29a
7386	Joint Exhibits of American Flyers Airline, et al., J-211	30a
	Joint Intervenors:	
7788	JI-1080	31a
8084	JI-B	37a
8847	Joint Intervenors' brief to the Examiner March 19, 1965	39a

Pages in Certified Records		Appendix Pages
Docket No. 13795 (Continued)		
10010	Recommended Decision of Examiner, August 27, 1965	44a
10269	Exceptions of Joint Intervenors, September 7, 1965	312a
10878	Brief of Joint Intervenors, September 27, 1965	317a
11275	Answer of Joint Intervenors, September 27, 1965	323a
11359	Oral Argument, October 13 and 14, 1965	325a
11734	Order No. E-23350	332a
11982	Petition for Reconsideration by Joint Intervenors, April 4, 1966	485a
12008	Answer of Joint Intervenors, April 11, 1966	500a
12044	Motion of Joint Intervenors, April 11, 1966	508a
12093	Order No. E-23600	517a
	VOLUME II	
12129	Order No. E-24237	543a
12171	Order No. E-24238	596a
12181	Order No. E-24239	608a
12322	Order No. E-24431	610a

Pages in Certified Records		Appendix Pages
Docket No. 13795 (Continued)		
12324	ER-478, November 22, 1966	613a
12327	ER-479, November 22, 1966	615a
Docket No. 11908		
12335	Order No. E-16023	617a
12348	Notice of Proposed Rulemaking, November 14, 1960 (EDR-21)	619a
12520	Order No. E-17190	636a
12703	Order No. E-17607	644a
	Transcript of Transatlantic Charter Investigation:	
15082	Cross examination of Phillip R. Capellupo (PAA) by Charles A. Hobbs of the American Society of Travel Agents, Inc.	648a
15338	Kenneth L. Briggs (TWA)	651a
16308	United States Overseas Airways, Inc., USOA-106	652a
17575	Trans World Airlines, Inc., TWA 13	653a
19438	Examiner's Decision—Transatlantic Charter Investigation	654a
19553	Appendix B to Examiner's Decision—Transatlantic Charter Investigation	755a
20642	Orders Nos. E-20530 and E-20531 and Supplemental Orders Nos. E-20530 and E-20531	777a

Pages in Certified Records		Appendix Pages
Docket No. 11908 (Continued)		
20868	Petition to Intervene by American Airlines and Others, March 23, 1964	884a
21179	Order No. E-20650	889a
21199	Order No. E-20776	892a
21909	Recommended Decision of Examiner, October 8, 1964	927a
22609	Order No. E-21966	944a
22954	Order No. E-22255	954a
	World Airways, Inc.:	
27329	World R-1	956a
27252	World 403	957a
27352	World R-7	959a
28299	Order No. E-28686	960a
28389	Pan American Airways' Brief, October 7, 1965	963a
28442	Trans World Airlines' Brief, October 8, 1965	968a
28743	Recommended Decision of Examiner, December 22, 1965	976a
29582	Order No. E-24240	1060a
29611	Order No. E-24241	1089a
29618	Order No. E-24242	1097a

INDEX

	Appendix Page
United States Court of Appeals for the Second Circuit	
Opinion, July 20, 1967	1119a
Judgment, July 22 ,1967	1144a
Order on Rehearing, September 29, 1967	1146a
Order Denying Petition for Rehearing En Banc, September 29, 1967	1148a
Order Granting Stay of Issuance of Mandate Under Rule 28(c), October 13, 1967	1150a

Order No. 24237

UNITED STATES OF AMERICA

CIVIL AERONAUTICS BOARD
WASHINGTON, D. C.

Served: September 30, 1966

SUPPLEMENTAL AIR SERVICE PROCEEDING

Docket 13795 *et al.*

Decided: March 11, 1966

Certificate authority to engage in overseas and foreign supplemental air transportation of persons and property for a five-year period, subject to the terms, conditions, and limitations of Parts 208 and 378 of the Board's Regulations, awarded to

(a) American Flyers Airline Corp., between the United States, on the one hand, and points in Canada, Mexico, and the Caribbean, on the other hand;

(b) Johnson Flying Service and Purdue Aeronautics Corp., between the United States and points in Canada;

(c) Modern Air Transport and Zantop Air Transport between the United States, on the one hand, and points in Canada and Mexico, on the other hand;

(d) Capitol Airways and Saturn Airways between the United States and points in the Caribbean;

(12129, 12130)

(e) Southern Air Transport between the United States, on the one hand, and points in the Caribbean and the Transpacific, on the other hand;

(f) Trans International Airlines and World Airways between the United States, on the one hand, and points in the Caribbean, the Transpacific, and Central and South America, on the other hand.

American Flyers, Capitol, Johnson, Modern, Purdue, Saturn, Southern, TIA, World, and Zantop also authorized for an indefinite period to provide charters of persons and property for the Department of Defense in overseas, foreign, and intraterritorial air transportation, subject to certain conditions.

APPEARANCES:

Same as set forth in Board's opinion accompanying Order E-23350, March 11, 1966.

12130

OPINION

BY THE BOARD:

In our Opinion of March 11, 1966 (Order E-23350), we disposed of the applications consolidated into this proceeding insofar as they sought certificates of public convenience and necessity under section 401(d)(3) of the Act, authorizing them to engage in supplemental air transportation between the 50 States. We expressly excluded from consideration there the portions of the applications that sought authority to provide supplemental air service in overseas and foreign air transportation and which, under

section 801 of the Act, are subject to the approval of the President.

In that decision, we found that ten of the applicants were fit, willing, and able, and should be awarded certificates authorizing them to operate civil and military charters with respect to persons and property between the 50 States, with the right to provide split charters and inclusive tour charters in addition to charters as traditionally defined;[1] that three applicants were not fit, willing, and able, and their applications should be denied;[2] and that the record should be reopened for further hearings on the qualifications of the three remaining applicants.[3] Concurrently, we adopted regulations implementing the authority granted and prescribing the limitations thereon.

12131

This opinion deals with the overseas and foreign issues in the case that we did not dispose of in our earlier decision. On those issues, Examiner Robert L. Park, in his recommended decision, found that (1) the qualified applicants should be issued certificates of public convenience and necessity authorizing them to conduct military and civil charter flights in overseas, foreign, and intraterri-

---

[1] American Flyers, Capitol, Johnson, Modern, Purdue, Saturn, Southern, TIA, World, and Zantop.

[2] Conner, Holiday, and Stewart.

[3] ONA, Standard, and Vance. Since the qualification issue upon which we found further hearings necessary goes to the fitness, willingness, and ability of the three carriers for issuance of any type of supplemental authority, we deferred action on their applications for overseas and foreign authority as well as domestic authority.

torial air transportation with respect to persons[4] and property; (2) the authority should include the right to provide split charters and inclusive tour charters; (3) rather than award uniform authority to all applicants as a class, individual carriers should be selected to serve specified overseas and foreign areas; and (4) the authorizations should be for a term of five years.

The areas which the examiner recommended that the individual carriers be authorized to serve are as follows: (1) Johnson and Purdue—Canada; (2) American Flyers, Modern, Vance, and Zantop—Canada and Mexico; (3) American Flyers, Capitol, Saturn, Southern, TIA, and World—the Caribbean area;[5] (4) TIA and World—Central and South America; (5) Southern, TIA, and World—the Transpacific area; and (6) Capitol and Saturn—the Transatlantic area (cargo).

12132

Exceptions to the recommended decision and briefs to the Board have been filed by most of the parties to the proceeding and the Board has heard oral argument.[6] Upon consideration of the record and the contentions of the parties, we find that we are in agreement with the ex-

[4] The examiner's finding did not embrace transatlantic passenger charter authority. Such authority is an issue in the *Reopened Transatlantic Charter Investigation*, Docket 11908 *et al.*, but not in this proceeding.

[5] As used by the examiner, the Caribbean area includes Jamaica, the Bahamas, Bermuda, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Trinidad, Aruba, the Leeward and Windward Islands, or any other place located in the Gulf of Mexico or the Caribbean Sea.

[6] The parties filing exceptions and briefs are listed in our earlier opinion (Order E-23350).

aminer's findings and conclusions, except in one respect. We have decided that no applicant should be awarded transatlantic cargo authority.[7] Accordingly, except as modified herein, we adopt as our own the findings, conclusions, and recommendations of the examiner on the overseas, foreign, and intraterritorial issues contained in his decision.[8]

As we noted in our opinion in the domestic phase, the examiner, in his thorough and well-reasoned decision, dealt fully with the issues in the case. The arguments of the various parties to the Board are, in major part, simply variations on the arguments they presented to the examiner, and which he considered and properly rejected. We, therefore, will confine our opinion here to a limited number of matters raised on exceptions and the single matter on which we have reached a conclusion different from that of the examiner.

12133

Transatlantic Cargo Authority

We disagree with the examiner's recommendation that Capitol and Saturn, who now hold certificates authorizing them to provide transatlantic passenger charters, also be authorized to provide transatlantic cargo charters. The transatlantic area, in our opinion, presents special considerations not applicable to the other areas in which we are granting cargo authority in addition to passenger authority.

---

[7] Consistent with our action in the domestic opinion, we do not adopt the examiner's findings on the qualifications of ONA, Standard, and Vance for overseas, foreign, and intraterritorial authority.

[8] The recommended decision was attached in its entirety to our earlier opinion (Order E-23350).

The Board has previously authorized Seaboard World Airlines to provide cargo only service across the north Atlantic, and the carrier has been engaged in developing the cargo potential there without the benefit of passenger authority or eligibility for subsidy. Seaboard is not a large carrier, and even though only a small percentage of its total revenues comes from civil cargo charters, the transatlantic is the only area it is authorized to serve, and it is already competing for the cargo traffic there not only with two of our largest carriers, Pan American and TWA, but with fourteen substantial foreign-flag carriers regularly flying the Atlantic.

We recognize that a grant of cargo authority to Capitol and Saturn might afford the two carriers some degree of operating flexibility in their efforts to avoid excessive ferry mileage in their passenger services. However, there is no showing here that this is essential to their passenger operations or that it would make a substantial contribution to the success of those operations. Further, each of the carriers is being given significantly broadened authority under our other awards to them in this case. We find

that benefits which might accrue from the award of transatlantic cargo authority to Capitol and Saturn are insufficient, on balance, to warrant their grant.

Inclusive Tour Charters

In the interstate phase of this proceeding, we affirmed the examiner's finding that the supplemental carriers should be authorized to operate inclusive tour charters.

Such authorization would enable tour operators to charter aircraft from the supplementals for the purpose of marketing packaged tours to members of the general public. The examiner also recommended that such authority be granted in foreign and overseas air transportation. We agree with this recommendation and the reasoning on which it is based.

To a large extent, the exceptions to the recommended decision do not distinguish between the domestic and foreign and overseas issues. These general exceptions have been treated in our domestic opinion, and since no purpose would be served by a repetition of the considerations set forth therein, we will incorporate by reference the inclusive tour portion of that opinion.[9] We also find that the examiner adequately disposed of the contentions relating specifically to foreign and overseas operations. Indeed, we find it appropriate to comment only on the issues of balance of payments.

The certificated route carriers argue that implementation of inclusive tour authority in foreign air transportation will primarily stimulate traffic originating in the United States and destined for foreign countries, rather

than bringing foreign visitors to this country, and consequently the program would have a damaging effect on the U. S. balance of payments position. The record offers no support for this view. Indeed, it is not without significance that the route carriers came forward with no evidence to substantiate their claim. In sharp contrast, there

[9] Order E-23350, pp. 3-21. The examiner's discussion is set forth in the recommended decision at pp. 43-65, 74-76, 81, and 120-130.

is persuasive evidence in the record suggesting that the balance of payments position will not be damaged and may in fact be improved.

The dimensions of the problem of inclusive tours as related to balance of payments can easily be exaggerated. It must be remembered that we are dealing with a group of small air carrier enterprises with limited resources and equipment, as compared with the U. S. and foreign flag route carriers. The supplemental carriers' total civil charter revenues for the year 1964, including both domestic and foreign, amounted to only $17.5 million, and the evidence in this proceeding as to inclusive tours indicates a range of only $6.5 to $10.5 million in the initial year of operations, of which most would be accounted for by domestic tours.[10] Thus, even if we were to make the unlikely assumption that inclusive tours would stimulate only U. S. travel abroad with no foreign travel to this country being generated, the amount of gold outflow involved would be quite small. And when we consider the likelihood that inclusive tours will attract to our shores a vast market which

remains to be tapped, it becomes clear that the balance of payments problem, when placed in proper perspective, has been considerably distorted.

Turning to the generative effect which we believe inclusive tours will have on foreign travel to the United States, we start with the fact that such travel has historically

[10] This of course excludes transatlantic operations. The Bureau's forecast of foreign inclusive tours, excluding the transatlantic, was $917,000 for the first year and $1.8 million for the third year of operations.

been much less in amount than U. S. travel abroad. However, foreign generated travel is growing at a faster rate than U. S. generated travel abroad. As shown in Appendix A, this has been the case since at least 1957. In addition, in 1964, for the first time, foreign generated air travel grew at a faster *absolute* rate than U. S. air travel abroad, amounting to a growth of approximately 700,000 foreign travelers as compared with 630,000 U. S. travelers.

There is considerable reason to believe that the increase in foreign travel to the United States has in significant part been the result of a combination of two factors: higher disposable per capita income in foreign countries, and lower air fares. Since the travel cost to the foreigner is higher in relation to his average income than it is to the American, the foreign traffic is more likely to respond sharply to fare reductions. And evidence submitted in the record, based upon U. S. Department of Commerce surveys in numerous foreign countries, indicates a sizeable demand for travel to this country which can be tapped by lower fare services.

Moreover, it seems clear that foreigners will be particularly attracted by low fare services combined with an all-expense package such as would be available under inclusive tour charters. By assuring lower predetermined travel

costs, such tours would mitigate the foreigners' fear of unknown high costs which they might otherwise encounter in traveling in the United States. The record in the proceeding is replete with evidence as to the tremendous popularity of inclusive tours in Europe, a matter which has been considered by the examiner in great detail in his

recommended decision and which therefore need not be repeated here.[11]

Thus, there is every indication that vigorous promotion of lower fare services both here and abroad would generate at least as many foreign originations as U. S. originations. And there is no reason to believe that the foreign market will not be vigorously promoted. Evidence introduced into the proceeding indicates that U. S. travel agents have facilities available in foreign countries which would be used for promoting tours. Moreover, the supplemental carriers will have strong incentives to develop foreign-generated business. Their needs to maintain and increase their utilization of equipment and expand their civil charter revenues will constitute powerful economic incentives to promote a maximum amount of foreign traffic. Further, they will be well aware of the fact that the authority which we are giving them is of a limited duration, and they will have no assurance of a renewal of that authority if it develops that the tour operations do not adequately promote travel to the United States.[11a]

12138

One final comment on this subject appears appropriate. If U. S. carriers' efforts to promote travel are to be restricted in the interest of the balance of payments policy,

---

[11] See recommended decision, pp. 56-65.

[11a] Moreover, regulations governing inclusive tour charters will require the reporting of data which will enable us to assess the extent to which foreign-generated travel is being promoted. If such data indicate that inbound travel is not being adequately promoted, the Board will be in a position to take necessary action, including the suspension of inclusive tour authority pursuant to section 401(g) of the Act.

we find it inappropriate and inequitable to single out the supplementals as the special target. These carriers are small business enterprises struggling to gain a foothold in air transportation markets. Their ability to compete in these markets is restricted by the limitations on their authority, confined as it is to charter services only. These carriers have proved to be an essential factor in our national defense civil augmentation airlift system, making substantial contributions in time of national crisis. The United States thus has a sizeable stake in their continued survival and viability. Inclusive tour authority will make a contribution to that continued viability. Finally, we believe that it is particularly inequitable to force these carriers to bear the brunt of the balance of payments policy, while the route carriers remain free to promote and stimulate travel abroad to an extent which completely dwarfs any likely future participation by the supplemental carriers in these markets.

12139

Landing Rights

The route carriers contend that a grant of the authority recommended by the examiner would confront the governments of the world with a blanketing of new authority to numerous carriers, that such action would have serious effect upon current and future bilateral negotiations designed to strengthen the operating rights of existing American carriers, and would require bargaining away rights that are necessary for the most effective scheduled American-flag transportation.

Obviously, any additional landing rights that may be necessary will have to be obtained from various foreign

governments before the supplemental carriers can inaugurate service under the foreign authorizations. However, this is not a new or unusual situation, but is, in fact, one that has arisen in many past cases in which awards found required by the public convenience and necessity have involved operations for which we lacked requisite rights from the appropriate foreign governments. The Board has not withheld the grant of certificate authority to U. S. route applicants because inauguration of the services would require additional rights.

The precise effect that any given award may have on the future course of bilateral negotiations or other governmental arrangements must necessarily be conjectural. However, there is nothing here to indicate that the authority being granted the supplemental carriers will have the repercussions that the route carriers fear. The fact is

that only a limited number of carriers are being granted authority to serve each of the foreign countries at issue in the proceeding, and these carriers, by the very nature of their authority, will not be operating over fixed routes or providing regularly scheduled services. We find nothing that would make it necessary or appropriate in this case to depart from the practice that has long been followed in awarding new foreign certificate authority.

Carrier Selection

All of the applicants awarded foreign charter authority challenge the examiner's choice of carriers to serve the

specific geographic areas designated.[12] Essentially, the argument of the individual applicants is not that they should be chosen in lieu of some applicant selected by the examiner, but rather is that they should be given authority to serve certain of the geographic areas in addition to the carriers selected by the examiner.

In selecting the carriers to serve the various geographic areas, the examiner took into consideration such relevant factors as the potential of the markets involved; the operational capability of each applicant as indicated by its size, scope of operations, financial posture, and equipment; the historic experience of the applicant; and the need of a given applicant for authority that would afford it a reasonable opportunity for future growth. We have carefully

12141

considered the objections that have been raised and find that they present nothing that would require or warrant conclusions different from those reached by the examiner. We recognize that certain carriers will be authorized to serve markets in which they have had little or no experience, and other applicants will not be authorized to serve countries they have served in the past.[13] However, a resolution of the carrier selection question requires a weighing and balancing of a number of considerations and the exercise of judgments based upon them. We are satisfied that the

[12] The various applicants also challenge the examiner's failure to award the qualified carriers uniform overseas and foreign charter authority as a class. We agree with the examiner's conclusion that "class" authority should not be granted.

[13] We find unsupported and without merit the contention that various carriers will have no interest in serving, or incentive to promote charter transportation to certain of the countries or areas.

examiner's judgments were reasonable and sound and should not be disturbed.[14]

Qualifications of Applicants

The route carriers, although not questioning the qualifications of the applicants to provide domestic and transborder civil charters or worldwide military charters, attack their "operational" fitness to provide overseas and the more extensive foreign civil charters. They contend that the applicants fail to meet the fitness standards of section 401(a)(3) for the latter services, since they submitted no plans of operation showing proposed frequencies, points to be served, and estimated profit and loss by areas, and demonstrated an absence of both facilities and personnel abroad and (in most instances) the availability of jet

12142

equipment which they assert is required to give international charters public appeal.

It can hardly be seriously contended that the supplemental carriers, who are admittedly qualified to conduct domestic charter operations, services for the military on a worldwide basis, and, whose managements the interveners concede "to be excellent,"[15] are operationally unfit to conduct foreign and overseas charters. We are not here dealing with nonoperating applicants seeking fresh entry into the field of air transportation, but with established carriers who have successfully engaged in air transportation for a

[14] The argument by certain of the applicants for a redescription of the geographic areas marked out by the examiner do not warrant any change in his designations.

[15] Oral Argument, Tr. 308.

number of years. The Board has not customarily required that certificate applicants for new route authority establish their qualifications in terms of separate and independent proof pertaining to every kind of service they will be able to provide under their certificates. We find it neither necessary nor appropriate to require the applicants here to submit detailed plans and estimates of their proposed operations in overseas and foreign air transportation as separate criteria of operational ability.

Upon consideration of the record, we conclude that those applicants which we found qualified in our opinion in the domestic phase of the case to provide services between the 50 States, are likewise fit, willing, and able to perform the transportation being authorized in the overseas and foreign fields.[16]

12143

Terms and Conditions

The matter of the terms and conditions to be attached to the supplemental operating authority was considered at some length in the recommended decision and in our decision in the domestic phase of the case. The certificates issued contemporaneously herewith will be subject to the same basic regulatory provisions as those applicable to domestic operations. Accordingly, we are concurrently issuing appropriate amendments to Parts 208 and 378 to make them applicable to the foreign and overseas certificates.

---

[16] The applicants found unqualified for an award of domestic authority are *a fortiori* unqualified for an award of broader and more demanding overseas and foreign authority.

(12143, 12144)

We have considered the remaining contentions of the parties and their exceptions to the recommended decision and find that, except as indicated herein, they should not alter the results we have reached.

Accordingly, in view of all of the foregoing, including the findings previously set forth by the Board upon the issues heretofore determined herein, and upon consideration of the record, we find that the public convenience and necessity require:

1. That certificate authority to engage in overseas and foreign supplemental air transportation of persons and property for a five-year period be granted to

(a) Johnson and Purdue between points in the United States and points in Canada;

12144

(b) American Flyers, Modern, and Zantop between points in the United States, on the one hand, and points in Canada and Mexico, on the other hand;

(c) American Flyers, Capitol, Saturn, Southern, TIA, and World between points in the United States and points in the Caribbean;[17]

(d) TIA and World between points in the United States, on the one hand, and points in Central and South America, on the other hand;

---

[17] For the purpose of this proceeding, the Caribbean shall be defined to include points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Trinidad, Aruba, the Leeward and Windward Islands, and any other place located in the Gulf of Mexico or the Caribbean Sea.

(e) Southern, TIA, and World between points in the United States and points in the Transpacific.[18]

2. That the foregoing carriers also be authorized for an indefinite period to provide charters of persons and property for the Department of Defense in overseas, foreign, and intraterritorial air transportation, subject to certain conditions.[19]

We further find:

1. That the carriers listed above are each citizens of the United States within the meaning of the Act, and are fit,

willing, and able properly to perform the supplemental air transportation hereinabove authorized to be performed by each of them and to conform to the provisions of the Act and the rules, regulations, and requirements thereunder.

2. That the public interest requires the amendment of Part 378 of the Special Regulations and Part 208 of the Economic Regulations effective upon the effective date of the certificates to be issued herewith.

3. That, except to the extent otherwise indicated herein and in our previous order, all applications and motions involved in this proceeding should be denied.

---

[18] For the purpose of this proceeding, the Transpacific shall be defined to include American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australasia, Indonesia and Asia as far west as longitude 70 degrees west via a Transpacific routing.

[19] We are revising the certificates attached to the recommended decision so as to delete "on a planeload basis" in paragraph 2 since charters for the Department of Defense are not limited to planeload charters.

(12145, 12146)

Appropriate orders will be entered.

Vice Chairman MURPHY and Member MINETTI concurred in the above opinion. Member GILLILLAND concurred and dissented, filing the attached statement. Chairman MURPHY and Member ADAMS did not take part in the decision.

12146

GILLILLAND, MEMBER, CONCURRING AND DISSENTING:

For the reasons stated in the dissent attached to Order E-23350, March 11, 1966, supplemental air carriers should not be authorized to operate all-expense tours in foreign air transportation.[1] I will add two observations.

The Board concludes that all-expense tours will have little or no effect upon balance of payments. If the new program is to accomplish anything it will involve wide participation by tour operators and their agents who have little or no experience in generating foreign air travel to the United States. These persons, lacking knowledge, experience, facilities, and sufficient motivation to overcome such limitations, will certainly not produce as much travel to the United States as from it, or as much expenditure of foreign funds within our country as of United States funds abroad. Such results have not yet been reached by the air carriers long in the market, which suffer under no similar disadvantages, and despite major efforts in that direction. There can be no doubt that the program will have a significant adverse effect on the balance of payments.

---

[1] Examples of regularly scheduled transportation authorized to tour operators under this decision are: New York-Caracas, Rio de Janeiro, Buenos Aires, New York-West Coast-Honolulu-Tokyo.

Furthermore, the Board ignores the effect upon bilateral air route negotiations, which are difficult enough in any event. The complicating effect of existing supplemental authorizations has already been made manifest in several bilateral negotiations, as is well known to all participants therein. The new program will complicate the matter fur-

ther, and to the prejudice of the foreign authorizations of our regularly certificated scheduled carriers which are essential to the integrity of our international route system.

/s/ WHITNEY GILLILLAND

12148

APPENDIX A

(See opposite) ☞

AIR TRAVELERS BETWEEN THE UNITED STATES
AND OTHER COUNTRIES BY CITIZENSHIP
(thousands of travelers both ways) 1/

	1957	1958	1959	1960	1961	1962	1963	1964
Foreigners	1,080	1,340	1,580	1,860	1,950	2,240	2,390	3,058
Americans	2,170	2,450	2,760	3,040	3,110	3,510	3,960	4,598

INCREASES

	1957-58	1958-59	1959-60	1960-61	1961-62	1962-63	1963-64
Foreigners	260	240	180	90	290	150	668
Americans	280	320	280	70	400	450	638

1/ Exclusive of travel over land borders (except Mexican air travel since January 1958), crewmen, military personnel, and travelers between the United States and its possessions.

Source: U. S. Department of Justice, Immigration and Naturalization Service.

(12149)

12149

Order No. E-24237

UNITED STATES OF AMERICA

CIVIL AERONAUTICS BOARD

WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board
at its office in Washington, D. C.
on the 11th day of March, 1966

Docket 13795 *et al.*

SUPPLEMENTAL AIR SERVICE PROCEEDING

ORDER

A full public hearing having been held in the above-entitled proceeding and the Board, upon consideration of the record, having issued its opinion containing its findings, conclusions, and decision;

IT IS ORDERED:

1. That certificates of public convenience and necessity for supplemental air transportation in the forms attached hereto be issued to American Flyers Airline Corp., Capitol Airways, Inc., Johnson Flying Service, Inc., Modern Air Transport, Inc., Purdue Aeronautics Corp., Saturn Airways, Inc., Southern Air Transport, Inc., Trans International Airlines, Inc., World Airways, Inc., and Zantop Air Transport, Inc.

2. That said certificates shall be signed on behalf of the Board by its Secretary, shall have affixed thereto the seal of the Board, and, subject to extension of their effective dates in accordance with the provisions of said certificates, shall be effective on November 26, 1966.

3. That all applications consolidated herein for supplemental certificates insofar as such applications seek authority for overseas and/or foreign air transportation and/or air transportation between places in the same territory or possession heretofore filed by Conner Air Lines, Inc., Holiday Airways, Inc., Stewart Air Service, and United States Overseas Airlines, Inc., be and they hereby are denied.

4. That, except to the extent otherwise indicated, all applications consolidated herein for supplemental certifi-

cates, insofar as such applications seek authority for overseas and/or foreign air transportation and/or air transportation between places in the same territory or possession, heretofore filed by the carriers listed in paragraph 1 of this order be and they hereby are denied.

5. That this order shall be effective upon the date of its approval by the President of the United States.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON
Secretary

(SEAL)

THE WHITE HOUSE

APPROVED:

LYNDON B. JOHNSON

September 27, 1966